

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

**MATTHEW GIBSON,**

**Plaintiff,**

**v.**

**Civil Action No. 5:21-cv-00181  
Honorable Frank W. Volk**

**LOUISE E. GOLDSTON, individually,  
COUNTY COMMISSION OF RALEIGH  
COUNTY, a political subdivision, JEFF  
MCPEAKE, individually, BRIAN WHITE,  
individually, BOBBY STUMP, individually,**

**Defendants.**

**DEFENDANT LOUISE E. GOLDSTON'S MOTION IN LIMINE TO PRECLUDE THE  
INTRODUCTION OF UNDISCLOSED EVIDENCE OF DAMAGES**

**COMES NOW** this Defendant, Louise E. Goldston, by counsel Jennifer E. Tully, Adam K. Strider, and the law firm of Bailey & Wyant, PLLC, and respectfully moves this Court *in limine* to preclude the Plaintiff from asserting claims for or introducing evidence of any of the injuries or damages, special or general, which have not been identified or produced in the course of discovery or pre-trial litigation of this matter. The same is properly excludable, and, if permitted, would amount to trial by ambush, which is disapproved-of by the Courts of this Circuit. See, e.g., *Bygum v. City of Montgomery*, Civil Action No. 2:19-cv-00456, 2021 U.S. Dist. LEXIS 188509, 2021 WL 4487610 (S.D.W.Va., Sept. 30, 2021).

**WHEREFORE**, in light of the foregoing, the Defendant prays that this Court will **GRANT** this Motion *in Limine*, and grant this Defendant such other relief this Court deems just and proper.

**LOUISE E. GOLDSTON,**  
**By Counsel,**

**/s/ Jennifer E. Tully**  
**Jennifer E. Tully (WV Bar #9356)**  
**Adam K. Strider (WV Bar #12483)**  
**BAILEY & WYANT, PLLC**  
**500 Virginia Street, East, Suite 600**  
**Post Office Box 3710**  
**Charleston, West Virginia 25337-3710**  
**T: 304.345.4222**  
**F: 304.343.3133**  
**[jtully@baileywyant.com](mailto:jtully@baileywyant.com)**  
**[astrider@baileywyant.com](mailto:astrider@baileywyant.com)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

**MATTHEW GIBSON,**

**Plaintiff,**

**v.**

**Civil Action No. 5:21-cv-00181  
Honorable Frank W. Volk**

**LOUISE E. GOLDSTON, individually,  
COUNTY COMMISSION OF RALEIGH  
COUNTY, a political subdivision, JEFF  
MCPEAKE, individually, BRIAN WHITE,  
individually, BOBBY STUMP,  
individually,**

**Defendants.**

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of foregoing “**DEFENDANT LOUISE E. GOLDSTON’S MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF UNDISCLOSED EVIDENCE OF DAMAGES**” was served upon the following parties through the Court’s Electronic Case Filing (ECF) system on this day, June 6, 2022:

J Arie M. Spitz  
Kevin A. Nelson  
Jason L. Holliday  
Dinsmore & Shohl, LLP  
P.O. Box 11887  
707 Virginia Street East, Suite 1300  
Charleston, WV 25339-1887  
*Attorney For: Kyle Lusk*

J. Victor Flanagan  
Kevin J. Robinson  
Pullin Fowler Flanagan Brown & Poe, PLLC  
252 George Street  
Beckley, WV 25801  
*Attorney For: Bobby Stump, Brian White, Jeff McPeake*

John H. Bryan  
Law Office of John H. Bryan  
PO Box 366  
Union, WV 24983  
*Attorney For: Matthew Gibson*

/s/ Jennifer E. Tully  
**Jennifer E. Tully (WV Bar #9356)**  
**Adam K. Strider (WV Bar #12483)**  
**BAILEY & WYANT, PLLC**  
**500 Virginia Street, East, Suite 600**  
**Post Office Box 3710**  
**Charleston, West Virginia 25337-3710**  
**T: 304.345.4222**  
**F: 304.343.3133**  
**[jtully@baileywyant.com](mailto:jtully@baileywyant.com)**  
**[astrider@baileywyant.com](mailto:astrider@baileywyant.com)**